

(3) Has any of the interlocking relationships described in section 409 of the Act;

(4) Is jointly controlled with the other carrier, directly or indirectly by a third person;

(5) Provides general agency services for the other carrier.

For the purpose of this statement, *general agency services* shall mean services performed under an agreement between an air carrier and a foreign air carrier which provides for the general representation of one by the other in a specified area or point, in relation to services such as the following: Solicitation and sale of passenger, express, and cargo transportation; airport transportation and hotel accommodations; local advertising and publicity, local sales offices; passenger services; local government representation; purchase, lease or other acquisition of equipment; or aircraft and transit services, aircraft inspection, aircraft dispatch.

(c) *Minimum safeguards.* The minimum safeguards which the Board will consider as adequate to foreclose passing off by affiliated carriers are as follows:

(1) An air carrier and any affiliated foreign air carrier shall not engage in joint public relations activities at points served by both carriers which tend to pass off the services of one carrier as the services of the other carrier or as part of a unified system of which each is a part;

(2) Where one affiliated carrier provides general agency services for the other carrier, at points served by both carriers, it shall specifically identify all flights of the other carrier as flights of that carrier without reference to any relationship to the carrier performing the agency services;

(3) All forms of display (including aircraft insignia), scheduled publications, advertising, or printed matter employed by affiliated carriers shall not state or imply that the services of either carrier are performed in common with the other carrier or as part of a single system. In cases where it is necessary to indicate that any agency service is performed by one affiliated carrier for the other, the references to the carrier performing the agency should be sufficiently subordinated to

the name of the other carrier as to emphasize the limited role of the agent;

(4) Telephone facilities at points served by both carriers should preserve the identity of the individual carriers;

(5) Where joint traffic or sales facilities are maintained by affiliated carriers, the separate identity of each carrier should be maintained by reasonably comparable use of display advertising, desk-space, personnel uniforms, and other facilities and activities;

(6) Where one carrier sells time payment tickets for travel over the other carrier (except interline travel), the application form should identify the carrier performing the transportation;

(7) The respective personnel of the affiliated carriers shall preserve the individual identity of the respective carriers in all public dealings.

(d) *Unfair and deceptive practice.* It is the policy of the Board to regard any joint activity of an affiliated air carrier and a foreign air carrier as an unfair or deceptive practice or unfair method of competition where such joint activity does not satisfy the minimum safeguards enumerated in the preceding subsection.

(e) *Exceptions.* Exceptions to a safeguard set forth in paragraph (c) of this section may be recognized for activities in a foreign country if the Board finds that special circumstances pertaining to the country render the safeguard inappropriate. Exceptions on other grounds may be recognized pursuant to § 399.4.

[PS-29, 30 FR 13781, Oct. 29, 1965]

**§ 399.83 Unfair or deceptive practice of air carrier, foreign air carrier, or ticket agent in orally confirming to prospective passenger reserved space on scheduled flights.**

It is the policy of the Board to consider the practice of an air carrier, foreign air carrier, or ticket agent, of stating to a prospective passenger by telephone or other means of communication that a reservation of space on a scheduled flight in air transportation is confirmed before a passenger has received a ticket specifying thereon his confirmed reserved space, to be an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof within the

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meaning of section 411 of the Act, unless the tariff of the particular air carrier or foreign air carrier provides for confirmation of reserved space by the means so used.

[PS-58, 39 FR 38096, Oct. 29, 1974]

### § 399.84 Price advertising.

The Board considers any advertising or solicitation by a direct air carrier, indirect air carrier, or an agent of either, for passenger air transportation, a tour (i.e., a combination of air transportation and ground accommodations), or a tour component (e.g., a hotel stay) that states a price for such air transportation, tour, or tour component to be an unfair or deceptive practice, unless the price stated is the entire price to be paid by the customer to the air carrier, or agent, for such air transportation, tour, or tour component.

[PS-113, 49 FR 49440, Dec. 20, 1984]

### § 399.85 [Reserved]

### § 399.86 Payments for non-air transportation services for air cargo.

The Board considers that payments by air carriers and foreign air carriers to shippers, indirect air carriers, or foreign indirect air carriers for non-air transportation preparation of air cargo shipments are for services ancillary to the air transportation, and are not prohibited under section 403 of the Act.

[PS-86, 44 FR 45609, Aug. 3, 1979]

### § 399.87 [Reserved]

## Subpart H—Other Policies Relating to Interests, Activities, and Relationships of Air Carriers

### § 399.91 Air carrier participation in programs of technical assistance to airlines of less developed countries.

(a) *Applicability.* This policy shall apply to proceedings under sections 408, 409, and 412 of the Act in which the Board is required to make any determination as to the public interest or consistency with the Act of any agreement or relationship sought to be entered into by an air carrier, or officer or director thereof, with a foreign airline in connection with the perform-

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ance of some activity pursuant to a technical assistance contract financed by an agency of the U.S. Government.

(b) *Policy.* It is the policy of the Board that all U.S. air carriers interested in performing contracts for aviation technical assistance to foreign airlines should have equal access to information necessary to bid on such contracts, and should be given equal consideration thereafter in the award of such contracts based upon customary contracting criteria and subject to the considerations set forth below:

(1) The air carrier selected should possess the necessary technical and managerial skills and economic strength to perform the assigned task in the recipient country to the credit of the United States. Where familiarity with the particular language and culture of the recipient country are important to the success of the project, weight should be given to the capabilities of all interested carriers in this regard, including particularly those which a route carrier may have acquired through service to the country or area.

(2) Where a single U.S. route carrier is serving or is certificated to serve the recipient country or the region in which it is located, and where initiation or continued operation of the route by such carrier is an important national interest objective of the United States, weight should be given to any evidence that an award of the contract to the route carrier as opposed to any other U.S. carrier would be held to achieve this objective.

(3) An air carrier performing a technical assistance contract will necessarily occupy a close special relationship with the airline and government of the recipient country. Over and above the terms of any specific contract, there is latent in such relationship the possibility of a relative preference for such carrier over a competing U.S. air carrier in matters of interline traffic, governmental restrictions, etc. Accordingly, where more than one U.S. route carrier is certificated to serve the recipient country and more than one such carrier wishes to perform the technical assistance, none of such carriers should be awarded the contract over the objection of